IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 1351 of 2004

Between:

M/s. Kishore Granites (P) Limited, Ganapavaram, Represented by its Managing Director, Gottopati Ravi Kumar, S/o. Seshagiri Rao,

..... PETITIONER

AND

The Commercial Tax Officer, Chilakaluripet.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the action of the respondent herein in non issuance of waybill in terms of application, dt: 17.01.2004 as without authority of law, arbitrary, improper ultravires the Rule - 45 of the APGST Rules, 1957 in the teeth of the Judgment of this Honourable High Court as well as the Honourable Apex Court violating Articles 227 and 141 of the Constitution of India directing the respondent to issue the waybills for use under the APGST and CST Acts in requisitioned by the petitioner.

Counsel for the Petitioner:MR.M.V.J.K.KUMAR, Advocate.

Counsel for the Respondent No.: GP FOR COMMERCIAL TAXES

The Court made the following :

ORDER : (Per Sri Bilal Nazki, J)

Heard learned Counsel for the parties.

Grievance of the petitioner is that way-bills are being stopped. The respondent's contention is that the petitioner has not paid the tax due and he is in huge arrears. On 15.7.2004, we passed the following order ;

> *"Heard learned Counsel for the parties.*
>
> *Order dated 27-1-2004, shall remain operative, but it will not be an impediment for the respondents to make recoveries of the tax due from the petitioner, and take steps which may be available to them under law to make such recoveries."*

We do not think that in the absence of any specific power with the respondents to stop the issuance of way-bills, they can do so even if party is in arrears. Therefore, we dispose of this Writ Petition with a direction to the respondents not to stop the issuance of way-bills. At the same time they shall be at liberty to proceed against the petitioner in terms of law for recovery of any arrears of tax.

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(BILAL NAZKI, J)

26th July, 2004.

(S.ANANDA REDDY, J)

ajr.

To

1 The Commercial Tax Officer, Chilakaluripet.

2 Two C.Cs. to the G.P. for Commercial Taxes, High Court buildings,

Hyderabad (O.U.T).

3 Two C.D. Copies.